

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 76

This is in response to your letter of November 9, 1977, requesting an advisory opinion from this Commission on several questions which are listed hereinafter.

We understand that these questions arose because of a charge made by a citizens' group against a member of the, Council that he failed to disclose a campaign contribution made by a developer of a high-rise project who received approval by the Council for its construction.

(1) What is the law on campaign contributions from the standpoint of the various standards of conduct provisions contained in the Revised Charter of 1973 and Article 15, Chapter 7, RO 1969, as amended?*

With respect to solicitation or acceptance of campaign contributions, RCH Section 10-102.1, in pertinent part, states that:

Nothing herein shall preclude the solicitation or acceptance of lawful contributions for election campaigns.

The foregoing provision clearly excepts the solicitation and acceptance of campaign contributions as a standard of conduct to be observed by officers and employees of the City.

(2) Although RCH Section 10-102.1 expressly exempts solicitation and acceptance of campaign contributions, are elected officials of the City and County of Honolulu required to disclose each and every campaign contribution received by them?

Our answer is no.

RCH Section 10-103, in pertinent part, states that any elected official "who possesses or who acquires such interests as might reasonably tend to create a conflict with the public interest shall make full disclosure in writing...to the council...at any time such conflict becomes apparent."

Generally, when an elected official, as stated above, possesses or acquires interests which tend to influence or impair his judgment, he would be required to file a disclosure. However, in the case of soliciting and accepting campaign contributions, since such solicitation and acceptance have been made an exception to the standards of conduct to be observed by elected officials, there is no necessity to file a disclosure as required under RCH Section 10-103.

This Commission believes that the members of the Revised Charter Commission made solicitation and acceptance of campaign gifts an exception to the standards of conduct because they were aware of pending legislation before the State Legislature relative to campaign expenditures. This awareness is reflected on page 632 of the Minutes of the Charter Commission. On that page the Charter Commission members, in a discussion regarding solicitation and acceptance of campaign contributions on April 18, 1972, said:

Mr. Chan questioned the provisions of subsection 1 of section 11-102 of Proposal 82, as amended, and in particular, the phrase 'permissible by law.' He stated that he thought that such language was superfluous.

Mr. King stated that section 11-102, subsection 1, was a recognition that political contributions could influence an official, and that the addition of the phrase 'permissible by law' might be interpreted to mean that exceptions might be made. Mr. Tuttle explained that he had added the phrase 'permissible by law' as recognition of statutes which might be enacted to control or limit the amount of campaign contributions and expenditures. Mr. King stated that if the solicitation or acceptance of contribution of election campaign was forbidden by statute or another law, such a recognition was not needed in the charter. Mr. King added that the phrase 'permissible by law' should be deleted from subsection 11-102-1. Mr. Tuttle agreed and stated that the Style Committee should handle this problem.

On the date of this discussion, the State Legislature was considering an election campaign contributions and expenditures bill (which later became Act 185, Session Laws of Hawaii 1973), establishing the Campaign Spending Commission and requiring all campaign contributions to be reported by candidates to public offices.

Apparently, the Revised Charter Commission may have excepted the solicitation and acceptance of campaign contributions because it realized that campaign contributions should be covered by a separate law in view of its broad ramifications and desirability of uniform control throughout the State. Accordingly, this Commission concludes that no disclosure of campaign contributions made to City elected officials is necessary because of the exception made in RCH Section 10-102.1.

(3) If a disclosure is required for any campaign contribution, must such disclosure be made prior to voting on any matter before the Council?

In view of our responses to questions 1 and 2, we consider this question to be moot.

Dated: Honolulu, Hawaii, December 21, 1977.

ETHICS COMMISSION
Nathaniel Felzer, Chairman

*We have rephrased your question to properly frame the issue involved in this question.